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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 WILLIE SMITH,

10 Plaintiff,

11 v.

12 HOMES, et al.,

13 Defendants.

Case No. 3:13-cv-00202-MMD-WGC

14 ORDER ACCEPTING AND ADOPTING
15 REPORT AND RECOMMENDATION
16 OF MAGISTRATE JUDGE
17 WILLIAM GL. COBB

18 Before the Court is the Report and Recommendation of United States Magistrate
19 Judge William G. Cobb (dkt. no. 103) ("R&R") relating to Defendants' Motion to Dismiss
20 or in the Alternative Motion for Summary Judgment. (Dkt. no. 85). Plaintiffs had until
21 December 28, 2015, to file an objection. No objection to the R&R has been filed.

22 This Court "may accept, reject, or modify, in whole or in part, the findings or
23 recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party
24 timely objects to a magistrate judge's report and recommendation, then the court is
25 required to "make a *de novo* determination of those portions of the [report and
26 recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails
27 to object, however, the court is not required to conduct "any review at all . . . of any issue
28 that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985).
Indeed, the Ninth Circuit has recognized that a district court is not required to review a
magistrate judge's report and recommendation where no objections have been filed. See
United States v. Reyna-Tapia, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard
of review employed by the district court when reviewing a report and recommendation to

1 which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
 2 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the
 3 view that district courts are not required to review "any issue that is not the subject of an
 4 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then
 5 the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.
 6 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to
 7 which no objection was filed).

8 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
 9 determine whether to adopt Magistrate Judge Cobb's R&R. Defendants moved for
 10 dismissal, or in the alternative, for summary judgment on Plaintiff's remaining retaliation
 11 claim against Defendant Homes, and against Defendant Williams based on supervisory
 12 liability. (Dkt. no. 85.) The Magistrate Judge treated Defendants' motion as a motion for
 13 summary judgment, and recommends granting the motion. (Dkt. no. 103.) Upon
 14 reviewing the R&R and underlying briefs, this Court agrees with the Magistrate Judge
 15 that the undisputed evidence does not support a claim for retaliation against Homes;
 16 and without any underlying constitutional violation, Williams cannot be liable as a
 17 supervisor.

18 It is therefore ordered, adjudged and decreed that the Report and
 19 Recommendation of Magistrate Judge William G. Cobb (dkt. no. 103) be accepted and
 20 adopted in its entirety.

21 It is ordered that Defendants' Motion to Dismiss or in the Alternative Motion for
 22 Summary Judgment (dkt. no. 85) is granted.

23 It is further ordered that Plaintiff's Motion to Amend the Complaint (dkt. no. 100) is
 24 denied.

25 The Clerk is directed to enter judgement accordingly and close this case.

26 DATED THIS 22nd day of January 2016.

27 
 28 MIRANDA M. DU
 UNITED STATES DISTRICT JUDGE